



February 15, 2008

ENGROSSED SENATE BILL No. 28

DIGEST OF SB 28 (Updated February 14, 2008 9:38 am - DI 103)

Citations Affected: IC 22-14; noncode.

Synopsis: Fire safe cigarettes. Establishes reduced ignition propensity standards for cigarettes. Authorizes the state fire marshal, the department of state revenue, and the alcohol and tobacco commission to monitor and enforce the standards. Provides for certification fees and penalties. Establishes: (1) the reduced ignition propensity standards for cigarettes fund; and (2) the fire prevention and public safety fund.

Effective: Upon passage.

Drozda, Simpson, Becker

(HOUSE SPONSORS — BROWN C, BROWN T, RUPPEL, RESKE)

January 8, 2008, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.

January 17, 2008, amended — Do Pass; reassigned to Committee on Appropriations.

January 17, 2008, pursuant to Senate Rule 65(b), reassigned to Committee on Rules and Legislative Procedure.

January 17, 2008, reported favorably — Do Pass.

January 28, 2008, read second time, amended, ordered engrossed.

January 29, 2008, engrossed. Read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

January 30, 2008, read first time and referred to Committee on Veterans Affairs and Public Safety.

February 14, 2008, amended, reported — Do Pass.

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ES 28—LS 6280/DI 77+



February 15, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 28

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-14-7 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 7. Reduced Ignition Propensity Standards for**
5 **Cigarettes.**

6 **Sec. 0.5. Sections 1 through 28 of this chapter apply beginning**
7 **July 1, 2009.**

8 **Sec. 1. As used in this chapter, "agent" means a person**
9 **authorized by the department of state revenue to purchase and**
10 **affix stamps (as defined by IC 6-7-1-9) on packages of cigarettes.**

11 **Sec. 2. As used in this chapter, "brand family" has the meaning**
12 **set forth in IC 24-3-5.4-1.**

13 **Sec. 3. As used in this chapter, "cigarette" has the meaning set**
14 **forth in IC 6-7-1-2.**

15 **Sec. 4. As used in this chapter, "manufacturer" means:**

16 **(1) an entity that manufactures or produces cigarettes or**
17 **causes cigarettes to be manufactured or produced that the**

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1 manufacturer intends to be sold in Indiana, including
 2 cigarettes intended to be sold in the United States through an
 3 importer;

4 (2) a first purchaser that intends to resell in the United States
 5 cigarettes that the original manufacturer or maker does not
 6 intend to be sold in the United States; or

7 (3) an entity that becomes a successor of an entity described
 8 in subdivision (1) or (2).

9 Sec. 5. As used in this chapter, "quality control and quality
 10 assurance program" means the laboratory procedures
 11 implemented to ensure that:

12 (1) operator bias, systematic and nonsystematic
 13 methodological errors, and equipment related problems do
 14 not affect the results of the testing; and

15 (2) the testing repeatability remains within the required
 16 repeatability values in section 13(f) of this chapter for all test
 17 trials used to certify cigarettes under this chapter.

18 Sec. 6. As used in this chapter, "repeatability" means the range
 19 of values within which the repeat results of cigarette test trials
 20 from a single laboratory will fall ninety-five percent (95%) of the
 21 time.

22 Sec. 7. As used in this chapter, "retail dealer" means a person,
 23 other than a manufacturer or wholesale dealer, that sells
 24 cigarettes.

25 Sec. 8. As used in this chapter, "sale" means any of the
 26 following:

27 (1) Transfer of title or possession, or both.

28 (2) Exchange or barter, including conditional exchanges or
 29 agreements.

30 (3) Giving cigarettes as samples, prizes, or gifts.

31 (4) Exchange of cigarettes for consideration other than
 32 money.

33 Sec. 9. As used in this chapter, "sell" means to:

34 (1) sell; or

35 (2) offer or agree to sell.

36 Sec. 10. As used in this chapter, "UPC bar code" means the
 37 universal product code or another product identification code that
 38 includes:

39 (1) a unique symbol that consists of a machine readable code;
 40 and

41 (2) numbers that are readable by an individual;
 42 that meets the standards established by GS1 US.

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1 **Sec. 11. As used in this chapter, "wholesale dealer" means any**
 2 **of the following:**

3 **(1) A person, other than a manufacturer, that sells cigarettes**
 4 **to a retail dealer or other person for purposes of resale.**

5 **(2) A person who owns, operates, or maintains a cigarette**
 6 **vending machine in, at, or upon premises owned or occupied**
 7 **by another person.**

8 **Sec. 12. Except as provided in section 19 of this chapter,**
 9 **cigarettes may not be sold or offered for sale in Indiana unless the**
 10 **cigarettes:**

11 **(1) have been tested according to the test method and meet the**
 12 **performance standard specified in section 13 or 15 of this**
 13 **chapter;**

14 **(2) have been certified under section 21 of this chapter; and**

15 **(3) have been marked under section 23 of this chapter.**

16 **Sec. 13. (a) Testing of cigarettes must be conducted according**
 17 **to the American Society of Testing and Materials (ASTM)**
 18 **standard E2187-04, Standard Test Method for Measuring the**
 19 **Ignition Strength of Cigarettes.**

20 **(b) Testing must be conducted on ten (10) layers of filter paper.**

21 **(c) Not more than twenty-five percent (25%) of the cigarettes**
 22 **tested in a test trial under this section may exhibit full length**
 23 **burns. Forty (40) replicate tests comprise a complete test trial for**
 24 **each cigarette tested.**

25 **(d) The performance standard required by this section may be**
 26 **applied only to a complete test trial.**

27 **(e) Written certifications must be based upon testing conducted**
 28 **by a laboratory that has been accredited under standard ISO/IEC**
 29 **17025 of the International Organization for Standardization (ISO)**
 30 **or other comparable accreditation standard required by the state**
 31 **fire marshal.**

32 **(f) Laboratories conducting testing under this section must**
 33 **implement a quality control and quality assurance program that**
 34 **includes a procedure that will determine the repeatability of the**
 35 **testing results. The repeatability value may not be greater than**
 36 **nineteen hundredths (0.19).**

37 **(g) This section does not require additional testing if cigarettes**
 38 **are tested consistent with this chapter for any other purpose.**

39 **(h) Testing performed or sponsored by the state fire marshal to**
 40 **determine a cigarette's compliance with the required performance**
 41 **standard must be conducted according to this section.**

42 **Sec. 14. Each cigarette listed in a certification submitted under**

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section 21 of this chapter that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard in section 13 or 15 of this chapter must have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one (1) complete band must be located at least fifteen (15) millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there must be at least two (2) bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column, or for nonfiltered cigarettes ten (10) millimeters from the labeled end of the tobacco column.

Sec. 15. (a) A manufacturer of a cigarette that the state fire marshal determines cannot be tested by the test method in section 13(a) of this chapter shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard in section 13(c) of this chapter, the manufacturer may use the test method and performance standard to certify the cigarette under section 21 of this chapter.

(b) If the state fire marshal determines that:

(1) another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this chapter; and

(2) the officials in that state responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or rule under a legal provision comparable to this section;

the state fire marshal shall authorize that manufacturer to use the alternative test method and performance standard to certify that cigarette for sale in Indiana, unless the state fire marshal demonstrates a reasonable basis for why the alternative test should not be accepted under this chapter. All other applicable requirements of this chapter apply to the manufacturer.

Sec. 16. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three (3) years and make copies of these reports available to the state fire marshal and the attorney general upon written request.

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Any manufacturer that fails to make copies of these reports available within sixty (60) days after receiving a written request is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each day after the sixty (60) days that the manufacturer does not make the copies available.

Sec. 17. The commission may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full length burns exhibited by any tested cigarette when compared to the percentage of full length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in section 13(c) of this chapter.

Sec. 18. (a) Beginning July 1, 2011, every three (3) years the state fire marshal shall review the effectiveness of this chapter and issue a report that includes the state fire marshal's findings and, if appropriate, recommendations for legislation.

(b) The state fire marshal shall transmit a copy of the report required under subsection (a) in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

Sec. 19. The requirements of section 12 of this chapter do not prohibit any of the following:

(1) A wholesale or retail dealer from selling the dealer's existing inventory of cigarettes on or after July 1, 2009, if the wholesale or retail dealer can establish that state tax stamps (as defined in IC 6-7-1-9) were affixed to the cigarettes before the effective date and if the wholesale or retailer dealer can establish that the inventory was purchased before the effective date in comparable quantity to the inventory purchased during the same period of the prior year.

(2) The sale of cigarettes solely for the purpose of consumer testing. For purposes of this subdivision, the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer (or under the control and direction of a manufacturer) for the purpose of evaluating consumer acceptance of the cigarettes, using only the quantity of cigarettes that is reasonably necessary for the assessment.

Sec. 20. Subject to the requirements of this chapter, the state fire marshal shall implement this chapter in a manner to obtain uniformity with the implementation and substance of the New York Fire Safety Standards for Cigarettes (N.Y. Exec. Law Section

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156-c).

Sec. 21. (a) Except as provided in subsection (d), each manufacturer shall submit to the state fire marshal a written certification attesting that:

(1) each cigarette listed in the certification has been tested as required under section 13 or 15 of this chapter; and

(2) each cigarette listed in the certification meets the performance standard in section 13(c) or 15 of this chapter.

(b) Each cigarette listed in the certification must include the following information:

(1) Brand, or trade name on the package.

(2) Style, such as light or ultra light.

(3) Length in millimeters.

(4) Circumference in millimeters.

(5) Flavor, such as menthol, if applicable.

(6) Filter or nonfilter.

(7) Package description, such as soft pack or box.

(8) Marking under section 23 of this chapter.

(9) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test.

(10) The date that the testing occurred.

(c) The certifications must be made available to the attorney general for purposes consistent with this chapter and the department of state revenue and the alcohol and tobacco commission for the purposes of ensuring compliance with this section.

(d) Notwithstanding subsection (a), the state fire marshal may accept as evidence of compliance with this chapter a certification issued to:

(1) the New York State Department of State's Office of Fire Prevention and Control; or

(2) the responsible entity of another state that has:

(A) substantially equivalent certification requirements relating to reduced ignition propensity cigarettes; and

(B) the same test method and performance standard requirements as provided in sections 13 and 15 of this chapter.

(e) Each cigarette listed in a certification submitted under this section must be recertified every three (3) years.

(f) For each brand family listed in a certification submitted under subsection (a) or (d), a manufacturer shall pay a fee to the

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1 state fire marshal of eight hundred dollars (\$800). The state fire
 2 marshal may adjust the fee every three (3) years to ensure that the
 3 fee defrays the actual costs of the processing, testing, enforcement,
 4 and oversight activities required by this chapter under rules
 5 adopted by the fire prevention and building safety commission.
 6 However, the fee for each brand family may not exceed one
 7 thousand dollars (\$1,000).

8 (g) If a manufacturer has certified a cigarette under this section,
 9 and after submitting the certification, makes a change to the
 10 cigarette that is likely to alter the cigarette's compliance with the
 11 reduced cigarette ignition propensity standards required by this
 12 chapter, that cigarette may not be sold or offered for sale in
 13 Indiana until the manufacturer retests the cigarette under the
 14 testing standards in section 13 or 15 of this chapter and maintains
 15 records of that retesting as required by section 16 of this chapter.
 16 An altered cigarette that does not meet the performance standard
 17 in section 13 or 15 of this chapter may not be sold in Indiana.

18 Sec. 22. (a) The reduced ignition propensity standards for
 19 cigarettes fund is established. Money in the fund may be used to
 20 support processing, testing, enforcement, and oversight activities
 21 under this chapter. The fund shall be administered by the state fire
 22 marshal.

23 (b) The expenses of administering the fund shall be paid from
 24 money in the fund.

25 (c) The treasurer of state shall invest money in the fund not
 26 currently needed to meet the obligations of the fund in the same
 27 manner as other public money may be invested.

28 (d) The fund consists of:

29 (1) certification fees collected under section 21 of this chapter;
 30 and

31 (2) grants, gifts, and donations intended for deposit in the
 32 fund.

33 (e) The money in the fund at the end of the state fiscal year does
 34 not revert to the state general fund.

35 Sec. 23. (a) Packages of cigarettes that are certified by a
 36 manufacturer under section 21 of this chapter must be marked to
 37 indicate compliance with the requirements of section 12 of this
 38 chapter. The marking must be in eight (8) point type or larger and
 39 consist of:

40 (1) modification of the product UPC bar code to include a
 41 visible mark printed at or around the area of the UPC bar
 42 code. The mark may consist of alphanumeric or symbolic

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characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC bar code;

(2) any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed upon the cigarette package or cellophane wrap; or

(3) stamped, engraved, embossed, or printed text that indicates that the cigarettes meet the standards of this chapter.

(b) A manufacturer shall use only one (1) marking and shall apply this marking uniformly for all packages, including packs, cartons, and cases, and brands marketed by that manufacturer.

(c) The manufacturer shall notify the state fire marshal of the marking that is selected.

(d) Before certification of any cigarette, a manufacturer shall submit the manufacturer's proposed marking to the state fire marshal for approval. Upon receipt of the request, the state fire marshal shall approve or disapprove the marking offered, except that the state fire marshal shall approve:

(1) a marking in use and approved for sale in New York under the New York Fire Safety Standards for Cigarettes; or

(2) the letters "FSC," which signifies Fire Standards Compliant, appearing in eight (8) point type or larger and permanently stamped, engraved, embossed, or printed on the package at or near the UPC bar code.

Proposed markings are considered approved if the state fire marshal fails to act within ten (10) business days after receiving a request for approval.

(e) A manufacturer may not modify its approved marking unless the modification has been approved by the state fire marshal under this section.

(f) A manufacturer certifying cigarettes under section 21 of this chapter shall:

(1) provide a copy of the certifications to all wholesale dealers and agents to which the manufacturer sells cigarettes; and

(2) provide sufficient copies of an illustration of the package marking used by the manufacturer under this section for each retail dealer to which the wholesale dealers or agents sell cigarettes.

Wholesale dealers and agents shall provide a copy of the package markings received from the manufacturers to all retail dealers to which the wholesale dealer or agent sells cigarettes. Wholesale dealers, agents, and retail dealers shall permit the state fire

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1 marshal, the department of state revenue, the alcohol and tobacco
2 commission, and their employees to inspect markings on the
3 cigarette packaging.

4 Sec. 24. (a) A manufacturer, a wholesale dealer, an agent, or
5 another person or entity that knowingly sells or offers to sell
6 cigarettes, other than through retail sale, in violation of section 12
7 of this chapter is subject to a civil penalty not to exceed one
8 hundred dollars (\$100) for each pack of cigarettes sold or offered
9 for sale. However, the penalty against a person or an entity may
10 not exceed one hundred thousand dollars (\$100,000) during any
11 thirty (30) day period.

12 (b) A retail dealer who knowingly sells or offers to sell cigarettes
13 in violation of section 12 of this chapter is subject to a civil penalty
14 not to exceed one hundred dollars (\$100) for each pack of
15 cigarettes sold or offered for sale. However, the penalty against a
16 retail dealer may not exceed twenty-five thousand dollars (\$25,000)
17 during any thirty (30) day period.

18 (c) In addition to any penalty prescribed by law, any
19 corporation, partnership, sole proprietor, limited partnership, or
20 association engaged in the manufacture of cigarettes that
21 knowingly makes a false certification under section 21 of this
22 chapter is subject to a civil penalty of at least seventy-five thousand
23 dollars (\$75,000). However, the penalty may not exceed two
24 hundred fifty thousand dollars (\$250,000) for each false
25 certification.

26 (d) A person that violates any other provision of this chapter is
27 subject to a civil penalty for a first offense not to exceed one
28 thousand dollars (\$1,000), and for a subsequent offense not to
29 exceed five thousand dollars (\$5,000), for each violation.

30 (e) A cigarette that has been sold or offered for sale that does
31 not comply with the performance standard required by section 13
32 or 15 of this chapter is subject to forfeiture. Cigarettes forfeited
33 under this section must be destroyed. However, before the
34 destruction of any cigarette forfeited under this section, the holder
35 of the trademark rights in the cigarette brand is allowed to inspect
36 the cigarette.

37 (f) In addition to any other remedy provided by law, the state
38 fire marshal may file an action in a court of competent jurisdiction
39 for a violation of this chapter, including petitioning for injunctive
40 relief or to recover any costs or damages suffered by the state
41 because of a violation of this chapter, including enforcement costs
42 relating to the specific violation and attorney's fees. Each violation

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of this chapter or rules adopted under this chapter constitutes a separate civil violation for which the state fire marshal may obtain relief.

(g) A law enforcement officer or representative of the state fire marshal may seize and take possession of any cigarettes that have not been marked in the manner required by section 23 of this chapter. The seized cigarettes must be turned over to the department of state revenue. Cigarettes seized under this section are forfeited to the state and must be destroyed. However, before the destruction of any cigarette seized under this section, the holder of the trademark rights in the cigarette brand is allowed to inspect the cigarette.

Sec. 25. (a) The:

(1) department of state revenue, in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers, as authorized under IC 6-7; and

(2) alcohol and tobacco commission;

may inspect cigarettes to determine if the cigarettes are marked as required by section 23 of this chapter.

(b) The department of state revenue and the alcohol and tobacco commission shall notify the state fire marshal upon the discovery of cigarettes that are not marked as required.

Sec. 26. To enforce this chapter, the attorney general and the state fire marshal, their authorized representatives, and law enforcement officers may examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale is required to give the attorney general, the department of state revenue, the alcohol and tobacco commission, the state fire marshal, their authorized representatives, and law enforcement officers the means, facilities, and opportunity for the examinations authorized by this chapter.

Sec. 27. (a) The fire prevention and public safety fund is established. The fund shall be administered by the state fire marshal. Money in the fund may used to support fire safety and prevention programs.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not

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1 currently needed to meet the obligations of the fund in the same
2 manner as other public money may be invested.

3 (d) The fund consists of:

- 4 (1) penalties recovered under section 24 of this chapter; and
5 (2) grants, gifts, and donations intended for deposit in the
6 fund.

7 (e) The money in the fund at the end of the state fiscal year does
8 not revert to the state general fund.

9 Sec. 28. Nothing in this chapter prohibits a person or entity
10 from manufacturing or selling cigarettes that do not meet the
11 requirements of section 12 of this chapter if the cigarettes:

- 12 (1) are or will be stamped for sale in another state; or
13 (2) are packaged for sale outside the United States;

14 and the person or entity has taken reasonable steps to ensure that
15 the cigarettes will not be sold or offered for sale to persons in
16 Indiana.

17 Sec. 29. The commission may adopt rules under IC 4-22-2 to
18 implement this chapter.

19 Sec. 30. A local governmental unit may not adopt an ordinance
20 concerning any subject regulated by this chapter.

21 Sec. 31. This chapter may not be construed to supersede or
22 preempt applicable federal laws or regulations concerning reduced
23 ignition propensity standards for cigarettes.

24 SECTION 2. [EFFECTIVE UPON PASSAGE] (a)
25 IC 22-14-7-21(d), as added by this act, applies to certifications
26 issued not more than three (3) years before the date on which this
27 act takes effect.

28 (b) This SECTION expires July 1, 2011.

29 SECTION 3. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill No. 28, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 6, line 39, delete "and." and insert "**and**".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 28 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 6, Nays 0.

Report of the President
Pro Tempore

Madam President: Pursuant to Senate Rule 65(b), I hereby report that Senate Bill 28, currently assigned to the Committee on Appropriations, be reassigned to the Committee on Rules and Legislative Procedure.

LONG

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 28, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

LONG, Chairperson

(Reference is to SB 28 as introduced.)

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SENATE MOTION

Madam President: I move that Senators Simpson and Becker be added as coauthors of Senate Bill 28.

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SENATE MOTION

Madam President: I move that Senate Bill 28 be amended to read as follows:

Page 1, between lines 9 and 10, begin a new paragraph and insert:
"Sec. 2. As used in this chapter, "brand" means each type of cigarette produced by a manufacturer."

Page 1, line 10, delete "2." and insert "3."

Page 1, line 12, delete "3." and insert "4."

Page 2, line 6, delete "4." and insert "5."

Page 2, line 13, delete "12(f)" and insert "13(f)".

Page 2, line 15, delete "5." and insert "6."

Page 2, line 19, delete "6." and insert "7."

Page 2, line 22, delete "7." and insert "8."

Page 2, line 30, delete "8." and insert "9."

Page 2, line 33, delete "9." and insert "10."

Page 2, line 41, delete "10." and insert "11."

Page 3, line 6, delete "11." and insert "12."

Page 3, line 6, delete "18" and insert "19".

Page 3, line 10, delete "12" and insert "13".

Page 3, line 12, delete "20" and insert "21".

Page 3, line 14, delete "22" and insert "23".

Page 3, line 16, delete "12." and insert "13."

Page 3, line 42, delete "13." and insert "14."

Page 3, line 42, after "listed" insert "**as a brand**".

Page 4, line 1, delete "20" and insert "21".

Page 4, line 12, delete "14." and insert "15."

Page 4, line 14, delete "12(a)" and insert "13(a)".

Page 4, line 19, delete "12(c)" and insert "13(c)".

Page 4, line 20, delete "20" and insert "21".

Page 4, line 39, delete "15." and insert "16."

Page 5, line 6, delete "16." and insert "17."

Page 5, line 6, delete "state fire marshal" and insert "**commission**".

Page 5, line 13, delete "12(c)" and insert "13(c)".

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Page 5, line 14, delete "17." and insert "**18.**".
 Page 5, line 22, delete "18." and insert "**19.**".
 Page 5, line 22, delete "11" and insert "**12**".
 Page 5, line 42, delete "19." and insert "**20.**".
 Page 6, line 5, delete "20." and insert "**21.**".
 Page 6, line 7, after "listed" insert "**as a brand**".
 Page 6, line 8, delete "12" and insert "**13**".
 Page 6, line 10, delete "12(c)" and insert "**13(c)**".
 Page 6, line 10, delete "14" and insert "**15**".
 Page 6, line 20, delete "22" and insert "**23**".
 Page 6, between lines 29 and 30, begin a new paragraph and insert:
"(d) The state fire marshal may accept as evidence of compliance with this chapter certifications issued by another state that has substantially equivalent legal requirements relating to fire safe cigarettes."
 Page 6, line 30, delete "(d)" and insert "**(e)**".
 Page 6, line 30, after "listed" insert "**as a brand**".
 Page 6, line 32, delete "(e)" and insert "**(f)**".
 Page 6, line 32, after "each" insert "**brand of**".
 Page 6, line 34, delete "annually".
 Page 6, line 34, after "fee" insert "**every three (3) years**".
 Page 6, line 37, delete "." and insert "**under rules adopted by the fire prevention and building safety commission.**".
 Page 6, line 38, delete "(f)" and insert "**(g)**".
 Page 7, line 2, delete "12" and insert "**13**".
 Page 7, line 3, delete "15" and insert "**16**".
 Page 7, line 4, delete "12" and insert "**13**".
 Page 7, line 6, delete "21." and insert "**22.**".
 Page 7, line 17, delete "20" and insert "**21**".
 Page 7, line 23, delete "22." and insert "**23.**".
 Page 7, line 24, delete "20" and insert "**21**".
 Page 7, line 25, delete "11" and insert "**12**".
 Page 8, line 19, delete "20" and insert "**21**".
 Page 8, line 34, delete "23." and insert "**24.**".
 Page 8, line 36, delete "11" and insert "**12**".
 Page 9, line 1, delete "11" and insert "**12**".
 Page 9, line 9, delete "20" and insert "**21**".
 Page 9, line 19, delete "12" and insert "**13**".
 Page 9, line 36, delete "22" and insert "**23**".
 Page 10, line 1, delete "24." and insert "**25.**".
 Page 10, line 7, delete "22" and insert "**23**".
 Page 10, line 11, delete "25." and insert "**26.**".

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Page 10, line 24, delete "26." and insert "**27.**".
 Page 10, line 34, delete "23" and insert "**24**".
 Page 10, line 39, delete "27." and insert "**28.**".
 Page 10, line 41, delete "11" and insert "**12**".
 Page 11, line 4, delete "28." and insert "**29.**".
 Page 11, line 4, delete "state fire marshal" and insert "**commission**".
 Page 11, line 6, delete "29." and insert "**30.**".

(Reference is to SB 28 as printed January 18, 2008.)

DROZDA

SENATE MOTION

Madam President: I move that Senate Bill 28 be amended to read as follows:

Page 9, line 26, delete "or attorney general".
 Page 9, line 33, delete "or attorney general".

(Reference is to SB 28 as printed January 18, 2008.)

DROZDA

SENATE MOTION

Madam President: I move that Senators Simpson and Becker be added as coauthors of Senate Bill 28.

DROZDA

SENATE MOTION

Madam President: I move that Senate Bill 28 be amended to read as follows:

Page 1, line 2, delete "JULY" and insert "UPON PASSAGE]:".
 Page 1, delete line 3.
 Page 1, line 6, delete "This chapter applies" and insert "**Sections 1 through 28 of this chapter apply**".
 Page 2, line 39, delete "the Uniform Code Council" and insert "**GS1 US.**".

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Page 2, delete line 40.
 Page 3, line 10, after "12" insert "**or 14**".
 Page 4, line 3, delete "this".
 Page 4, line 3, after "section" insert "**12 of this chapter**".
 Page 4, line 38, delete "section" and insert "**chapter**".
 Page 5, line 38, delete ", and" and insert ".".
 Page 5, delete lines 39 through 41.
 Page 6, line 8, after "12" insert "**or 14**".
 Page 6, line 17, delete "menthol or chocolate," and insert "**menthol,**".
 Page 6, line 37, after "chapter." insert "**However, the fee for each brand of cigarette may not exceed one thousand dollars (\$1,000).**".
 Page 6, line 39, delete "receiving" and insert "**submitting the**".
 Page 7, line 4, after "12" insert "**or 14**".
 Page 9, line 12, delete "two-hundred" and insert "**two hundred**".
 Page 9, line 19, after "12" insert "**or 14**".
 Page 11, line 1, delete "and".
 Page 11, line 2, before "the person" insert "**and**".
 Page 11, after line 7, begin a new paragraph and insert:
"SECTION 2. An emergency is declared for this act."

(Reference is to SB 28 as printed January 18, 2008.)

DROZDA

COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred Senate Bill 28, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 11, delete ""brand" means each type of" and insert **""brand family" has the meaning set forth in IC 24-3-5.4-1."**

Page 1, delete line 12.

Page 3, line 9, delete ":" and insert **"the cigarettes:"**.

Page 3, line 10, delete "the cigarettes".

Page 3, line 12, delete "14" and insert **"15"**.

Page 3, line 13, delete "a written certification has been filed by the manufacturer" and insert **"have been certified"**.

Page 3, line 14, delete "with the state fire marshal".

Page 3, line 16, delete "the cigarettes".

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Page 3, line 27, delete "only".

Page 3, line 28, after "applied" insert "**only**".

Page 4, line 2, delete "as a brand".

Page 4, line 5, delete "12" and insert "**13 or 15**".

Page 5, line 29, delete "retailer" and insert "**retail**".

Page 6, line 5, delete "Each" and insert "**Except as provided in subsection (d), each**".

Page 6, line 7, delete "as a brand".

Page 6, line 8, delete "14" and insert "**15**".

Page 6, line 31, delete "The" and insert "**Notwithstanding subsection (a), the**".

Page 6, line 32, delete "certifications issued by another state that has" and insert "**a certification issued to:**

(1) the New York State Department of State's Office of Fire Prevention and Control; or

(2) the responsible entity of another state that has:

(A) substantially equivalent certification requirements relating to reduced ignition propensity cigarettes; and

(B) the same test method and performance standard requirements as provided in sections 13 and 15 of this chapter."

Page 6, delete lines 33 through 34.

Page 6, line 35, delete "as a brand".

Page 6, line 35, after "certification" insert "**submitted**".

Page 6, line 37, delete "of cigarette" and insert "**family**".

Page 6, line 37, after "certification" delete "," and insert "**submitted under subsection (a) or (d),**".

Page 6 line 38, delete "two" and insert "**eight**".

Page 6, line 39, delete "fifty dollars (\$250)." and insert "**dollars (\$800).**".

Page 7, line 2, delete "of cigarette" and insert "**family**".

Page 7, line 10, after "13" insert "**or 15**".

Page 7, line 13, delete "14" and insert "**15**".

Page 8, line 5, after "marking" delete ",".

Page 9, line 28, delete "14" and insert "**15**".

Page 11, between lines 16 and 17, begin a new paragraph and insert:

"Sec. 31. This chapter may not be construed to supersede or preempt applicable federal laws or regulations concerning reduced ignition propensity standards for cigarettes.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) IC 22-14-7-21(d), as added by this act, applies to certifications issued not more than three (3) years before the date on which this

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act takes effect.

(b) This SECTION expires July 1, 2011."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 28 as reprinted January 29, 2008.)

TINCHER, Chair

Committee Vote: yeas 10, nays 0.

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